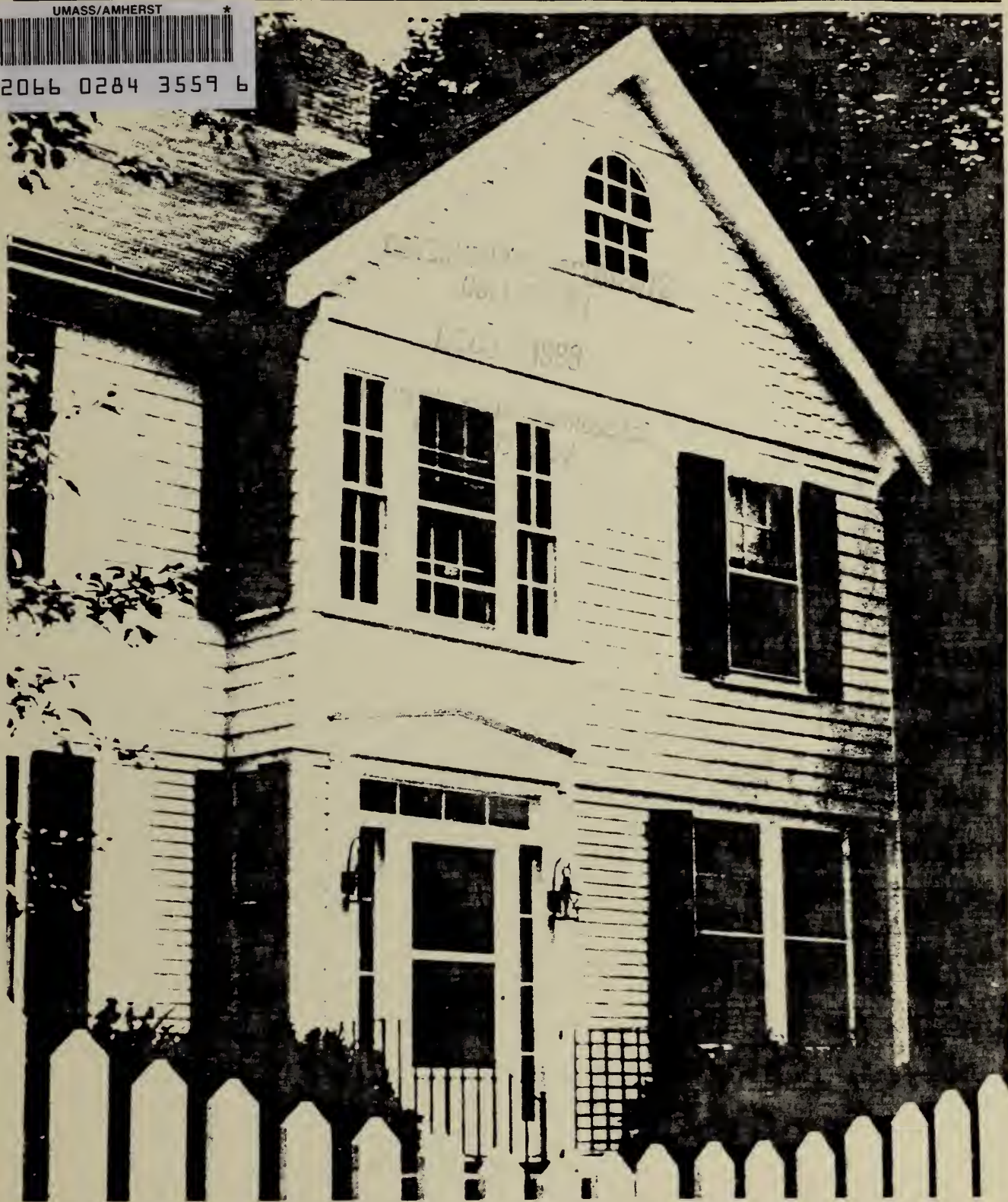


MASS. Y3. MF1: G92

✓

★ UMASH/AMHERST ★  
312066 0284 3559 6



# *The Growth Management Catalog;*

A Compendium of Growth Management Techniques



Metropolitan Area  
Planning Council  
110 Tremont Street  
Boston, MA 02108

583/420



# ***GROWTH MANAGEMENT CATALOG***

A Compilation of Growth Management  
Techniques

November 1987



The Metropolitan Area Planning Council would like to thank members of the Executive Committee and the Land Use-Environmental Technical Assistance Committee for their work and support.

Project Coordinator: **Nelda Hoxie**

Contributors: **Carol Thomas, AICP, Thomas Planning Services, Inc.**  
**Joan Blaustein**  
**Carol Baldassari**  
**Judy Wiegand**

Technical Reviewers: **Alexander Zaleski, AICP**  
**Glenn Garber**  
**Joel Bard, Esq.**  
**Brian Barber, AICP**  
**Ed Bates**

Editors: **Ethel Shepard**  
**Sandra Lenzi**

Graphics: **Russ Brami**

MAPC Officers: **Frank E. Baxter, President**  
**Franklin G. Ching, Vice-President**  
**Marjorie A. Davis, Secretary**  
**Martha K. Gjestebj, Treasurer**  
**David C. Soule, Executive Director**

Additional copies of this report may be obtained from the Metropolitan Area Planning Council (MAPC). No portion of this report may be reproduced without permission from the MAPC.





## I. Introduction

## II. Management Techniques

### A. Explanation of Groupings and Technique Selection

1. Explanation.....	1
2. Potential Issues Addressed Table.....	2

### B. Overall Planning Framework

1. Master Plan.....	4
2. Policy Plan.....	5
3. Open Space Plan.....	6
4. Official Map.....	7

### C. Zoning Techniques

1. Conventional Zoning Districts.....	8
2. Overlay Districts.....	9
3. Performance Zoning.....	10
4. Special Permits.....	11
5. Site Plan Review.....	12
6. Performance Standards.....	13
7. Architectural Design Districts.....	14
8. Cluster Development.....	15
9. Planned Unit Development.....	16
10. Transfer of Development Rights.....	17
11. Residential Development Scheduling.....	18
12. Commercial Development Scheduling.....	19
13. Development Impact Scheduling.....	20
14. Phased Development.....	21
15. Building Moratorium.....	22
16. Limited Subdivision Moratorium.....	23
17. Annual Building Limitation.....	24
18. Absolute Building Limitation.....	25
19. Inclusionary Housing Programs.....	26

### D. Nonzoning Regulations

1. Subdivision Control.....	27
2. Public Health, Title V.....	28
3. Wetlands Protection Act.....	29
4. Farm Assessment Act.....	30
5. Forest Assessment Act.....	31

6.	Conservation Restriction Act.....	32
7.	Earth Removal.....	33
8.	Historic Districts.....	34
9.	Scenic Roads Act.....	35
10.	Public Shade Trees Act.....	36

#### E. Land Acquisition Program

1.	Fee Simple Land Acquisition.....	37
2.	Development Rights Acquisition.....	38
3.	Easements.....	39
4.	Land Banking.....	40
5.	Private Land Trust.....	41
6.	Preferential Assessment and Abatement.....	42

#### F. Municipal Services and Infrastructure Provision

1.	Capital Improvements Plan.....	43
2.	Service Limitation or Provision.....	44
3.	Urban Services Center.....	45
4.	Municipal Facilities Location.....	46
5.	Road Extension and Abandonment.....	47
6.	Linkage.....	48



## I. Introduction

The growth management planning process uses public policy to ensure an acceptable level of growth and change in a community. It consists of techniques to regulate the location, geographic pattern, density, quality, and rate of growth. This process may also coordinate the growth rate and the community's ability to provide municipal services and infrastructure.

The purpose of this catalog is to describe the growth management options available to local officials.

To help local officials sort through the techniques available and find those most likely to help their situations, we've divided the catalog into two sections. Section II explains the five categories of techniques: Overall Planning Framework, Zoning, Nonzoning Regulations, Land Acquisition Programs, and Municipal Services and Infrastructure Provision. It also provides a summary table which indicates the techniques that may be used to address specific growth management issues.

Section III consists of individual fact sheets which provide a brief summary of each growth management technique, a listing of where it has been used before in Massachusetts, and additional sources of information.



## II *Growth Management Techniques*

---



## Explanation of Groupings and Technique Selection

There are five categories of growth management techniques: Overall Planning Framework, Zoning, Nonzoning Regulations, Land Acquisition Programs, Municipal Services and Infrastructure Provision. An Overall Planning Framework provides four options for determining town planning goals. Zoning techniques address a range of activities, from determining a town-wide pattern of land use to reviewing the appropriateness of individual development projects, controlling the rate of growth and protecting public health. Nonzoning Regulations also incorporate regulations for protecting public health and preserving critical environmental and historic resources. Land Acquisition Programs summarize techniques for acquiring the full title or the development rights to a parcel of land. The final section, Municipal Services and Infrastructure Provision, describes strategies for coordinating the rate and location of growth with municipal services and infrastructure.

Table 1, entitled "Potential Issues Addressed" provides a list of issues most likely to be confronted by a community experiencing growth pressures and a list of growth management techniques that best address these planning issues. These issues are: quality of development, environmental protection, development density, growth rate, scheduling capital costs, economic development and affordable housing.

It should be noted that more than one technique can address a broad range of planning issues. This table indicates which techniques can be most useful for a community.







Table I (continued)

*Potential Issues Addressed*

	Quality of Development	Environmental Preservation	Development Density	Growth Rate	Scheduling Capital Costs	Economic Development	Affordable Housing
• May positively address the issue							
○ Little effect addressing the issue							
- Negative effect addressing the issue							
<b>Nonzoning Regulations</b>							
Subdivision Control	●	○	○	○	○	○	●
Public Health	●	●	○	●	○	-	○
State Environmental Code, Title V	●	●	-	●	○	-	-
Wetlands Protection Act	●	●	-	●	○	-	○
Farm Assessment Act	○	●	-	●	○	-	○
Forest Assessment Act	○	●	-	●	○	-	○
Conservation Restriction Act	○	●	○	●	○	○	○
Earth Removal	●	●	○	○	○	-	○
Historic Districts	●	●	○	○	○	○	○
Scenic Roads	○	●	○	○	○	○	○
Public Shade Trees	○	●	○	○	○	○	○
<b>Land Acquisition Programs</b>							
Fee Simple Acquisition	○	●	○	●	○	-	●/-
Development Rights	○	●	●	●	○	○	●/-
Easements	●	●	●	●	○	○	●/-
Land Banking	●	●	●	●	●	-	●/-
Preferential Assessment & Abatement	○	●	○	○	○	○	○
<b>Municipal Services &amp; Infrastructure Provision</b>							
Capital Improvement Plan	○	○	○	○	●	●	●
Urban Services Center	-	-	○	-	○	○	●
Service Limitation or Provision	○	●	-	○	●	-	●
Municipal Facilities Location	-	-	○	-	●	-	○
Road Extension and Abandonment	○	○	●	○	●	●	○
Linkage	○	○	●	○	○	○	●

## **B** *Overall Planning Framework*

---



# MASTER PLAN

## *Description*

A master plan is adopted by a municipality's planning board to guide the community's physical development and land use. Master plans include a map that illustrates an "ideal" land-use pattern for the four major land-use elements, traditionally, those are -- private land-use, municipal facilities, resource areas and road and transportation facilities. The map is based upon demographic and economic data, existing land-use patterns and community goals. Other topics may be included as warranted by local conditions.

Master plans share three characteristics. They synthesize the geographic areas of a municipality, include all municipal functions pertaining to physical development, and guide long-range decisions. Although the master plan is intended to guide long-range planning policies, most communities need to update the master plan every ten years depending upon how rapidly conditions in the community change.

In Massachusetts, unlike other states, there is usually no connection between regulatory powers and master plans. The contents of a master plan and adoption procedures are regulated by Chapter 41, Section 81-D of the Massachusetts General Laws.

## **Advantages**

- Provides an overall planning framework.
- Provides a forum to discuss long-range growth objectives.

## **Limitations**

- Does not necessarily consider nonphysical planning problems.
- Difficult to form a consensus to establish an "ideal" land-use pattern.
- Ideal plans become outdated rapidly as private development initiatives rarely correspond to the plan.
- No enforcement or direct incentives for private action.

## **Prerequisites for Use**

- Identification of long-term trends.
- Availability of funding and time.
- Planning expertise.

## **Some Examples of Where It is Used in Massachusetts**

Broadly used, most municipalities in the MAPC region have comprehensive plans.

## **Information Location**

*Balanced Growth Manual*, Metropolitan Area Planning Council (1978).

Massachusetts General Laws, Chapter 41, Section 81-D.

## **Complementary Tools**

Zoning, subdivision regulations.

# POLICY PLAN

## *Description*

A policy plan is a document which establishes criteria that guide decision-making for one or more boards or departments in a municipality. All government operations may have policy plans. Usually, policy plans focus on a limited number of policy concerns, generally those determined by current political conditions. A policy plan may be included in the community comprehensive plan or master plan.

## **Advantages**

- All governmental concerns can be included.
- Contains criteria that can be directly translated into administrative actions.

## **Limitations**

- Does not provide a broad overview of the community.
- May require frequent amending.

## **Prerequisites for Use**

- One or more municipal boards must be willing to establish policies and use them as administrative guidelines.

## **Some Examples of Where It is Used in Massachusetts**

Information not available.

## **Information Location**

Information not available.

## **Complementary Tools**

Comprehensive plan, capital improvement budget, inclusionary housing.



# OPEN SPACE PLAN

## *Description*

An open space plan evaluates the need for a variety of natural, open areas and recreation sites. It identifies actions required by the town to accomplish its open space and recreation goals. The plan usually evaluates the potential of undeveloped parcels for open space and recreational uses. Most open space plans conform with the guidelines of the state Division of Conservation Services (DCS) to assure eligibility for state funds. DCS-approved plans are required every five years.

## **Advantages**

- Provides eligibility for state land acquisition programs.
- Provides an opportunity to incorporate detailed environmental concerns in the overall planning framework.
- Provides for protection of natural assets and opportunities for recreation.

## **Limitations**

- Requires substantial funding.

## **Prerequisites for Use**

- Conformance with DCS guidelines, to ensure eligibility for state funds for land acquisition.

## **Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*The Community Guide to Open Space and Recreation Planning*, The Massachusetts Association of Conservation Commissions (May 1985).

## **Complementary Tools**

Natural resource protection plans.

# OFFICIAL MAP

## *Description*

An official map shows public ways and parks and any private way which is used by more than two owners. A community may adopt an official map through its town meeting or city council if it has a planning board. Once the map has been adopted, no building permit may be issued for any building unless it is on a way included on the official map or in an approved subdivision. Any person denied a permit may appeal to the zoning board of appeals.

The official map is an informational document only and has no power to determine a community's development pattern. In conformance with subdivision laws, a property owner may subdivide land regardless of the official map. City councils, boards of selectmen, and other municipal officers retain all duties pertaining to public parks or ways, with the provision that the official map be altered as any changes and/or improvements are made.

The city council, board of selectmen, or appointed committee must hold a hearing prior to making any change in the official map. The public hearing notice must be advertised 10 days before it is to take place. No change or addition which has not been previously recommended by the planning board shall be adopted until a report is received from the planning board or after 30 days have passed.

## **Advantages**

- Provides an accurate reference source for public ways and parks.

## **Limitations**

- Has no authority to influence the overall development pattern.

## **Prerequisites**

- Availability of engineering information for the location of public ways and parks.

## **Some Examples of Where It is Used in Massachusetts**

Burlington  
Charlton

## **Information Location**

Massachusetts General Laws, Chapter 41, Sections 81-E through 81-H.

## **Complementary Tools**

Subdivision regulations.





# CONVENTIONAL (EUCLIDEAN) ZONING

## *Description*

Conventional zoning divides a municipality into districts and regulates the land use and the location, bulk, height, shape, and coverage of buildings in each district.

Exclusive zoning districts segregate residential, commercial, industrial, and other uses. Cumulative zoning districts mix uses, permitting residential uses in commercial districts and commercial uses in industrial districts.

The purposes of zoning are to implement a comprehensive plan, promote compatible development and protect the general health, safety and welfare.

## **Advantages**

- Provides clear guidelines for property owners.
- Generally establishes land uses compatible with perceived social and environmental constraints.
- May preserve specific land uses.
- Determines the character of a town.
- May limit public expenditures on infrastructure.

## **Limitations**

- May encourage unimaginative land development, unrelated to topography or wetlands.
- Generates unequal values for similar land types in different zoning districts.
- May be undercut by inappropriate granting of variances.

## **Prerequisites for Use**

- Establish a reasonable basis for each district.
- Treat similar land uses in a like manner.
- Show districts on a zoning map.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Balanced Growth Manual*, Metropolitan Area Planning Council (1978).

*Land Regulation*, Metropolitan Area Planning Council (1978).

Richard F. Babcock, *The Zoning Game* (Madison, Wis.: University of Wisconsin Press, 1969).

Massachusetts General Laws, Chapter 40A, Section 4.

## **Complementary Tools**

Comprehensive plan, capital improvements program, subdivision regulations.

# OVERLAY DISTRICTS

## Description

Overlay districts superimpose restrictions or development options on areas in zoning districts.

Overlay districts protect specific environmental features or encourage specific development patterns. Common types of overlay districts include aquifer protection, flood plain, design review, and increased densities.

## Advantages

- Targets specific planning concerns.

## Limitations

- May be relatively expensive to implement, e.g. aquifer protection overlay with its requirement for mapping the underground aquifer and primary and secondary recharge areas.

## Prerequisites for Use

- Show the overlay district on the zoning map.
- Professional delineation of area and reasons for district.

## Some Examples of Where It is Used in Massachusetts

Acton	Foxborough	Lincoln	Natick	Stoughton
Arlington	Framingham	Littleton	Newton	Sudbury
Ashland	Franklin	Lynnfield	Norfolk	Swampscott
Bedford	Hamilton	Manchester	North Reading	Topsfield
Bellingham	Hanover	Marblehead	Norwell	Walpole
Belmont	Hingham	Marshfield	Norwood	Wayland
Boxborough	Holbrook	Medfield	Pembroke	Weston
Burlington	Holliston	Middleton	Reading	Weymouth
Carlisle	Hopkinton	Milford	Saugus	Wilmington
Cohasset	Hudson	Millis	Scituate	Winchester
Concord	Ipswich	Milton	Sharon	Winthrop
Dedham	Lexington	Nahant	Sherborn	Wrentham

## Information Location

*Groundwater Protection, A Guide for Communities*, Metropolitan Area Planning Council (1982).

*Water Resources Protection Techniques*, Metropolitan Area Planning Council (1978).

*Listing of Communities in Massachusetts with Groundwater Controls*, Department of Environmental Quality Engineering, Division of Water Supply (1986).

## Complementary Tools

Performance standards, special permits.



# PERFORMANCE ZONING

## *Description*

Performance zoning determines the permissible effects of a development rather than enumerating the types of uses permitted. Development is based on the capacity of the land, municipal infrastructure and services to support growth. It is the responsibility of the developer to demonstrate that zoning criteria are met.

## **Advantages**

- Relates the intensity of growth to municipal and environmental capacity to support growth.
- Guides growth to most appropriate locations.
- Outlines the desirable qualities of growth.

## **Limitations**

- Requires substantial and sophisticated analysis for proper implementation.

## **Prerequisites for Use**

- Determine the carrying capacity of each zoning district.
- Specify performance criteria and standards for evaluating development projects.
- Treat similar uses and impacts in a similar manner.
- Locate districts on a zoning map.

## **Some Examples of Where It Is Used in Massachusetts**

Gay Head, Martha's Vineyard

## **Information Location**

Fredland, "Environmental Performance Zoning: An Emerging Trend?" *The Urban Lawyer* (1980), p.678.

*Growth Management Techniques*, Metropolitan Area Planning Council (1978).

## **Complementary Tools**

Special permits, site plan review.

# SPECIAL PERMITS

## *Description*

Special permits regulate activities that because of their size or special character may create safety problems or affect neighboring land uses or the community as a whole. In granting a special permit, conditions may be imposed by the municipality that relate to on- and off-site physical improvements, limit the hours of use, and other conditions which the town believes are justified due to the impacts of the project.

Communities have broad discretion in determining what uses or densities require special permits. However, they may not require that all uses in a district seek a special permit. Some reasonable use of land must be permitted as of right. On the other hand, the Massachusetts Supreme Judicial Court has upheld a local bylaw which permitted certain uses while requiring all developments in a zone to seek site plan approval by way of a special permit.

## **Advantages**

- Requires an appropriate design for each site.
- Mitigates on- and off-site development impacts.
- May be used to provide financial relief in rapidly growing communities which are forced to expand infrastructure.

## **Limitations**

- Adds to development costs.
- Considers the impact of individual projects, not the overall effect of total development.

## **Prerequisites for Use**

- Designate uses that are harmonious with the purpose of the bylaw.
- Establish clear standards for review.

## **Some Examples of Where It Is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Land Use Manager*, Volume 2, Editions 2 and 3, Executive Office of Communities and Development (1985).

## **Complementary Tools**

Site plan review, cluster development, planned unit development, impact fees.

# SITE PLAN REVIEW

## Description

Site plan review is an administrative procedure that traditionally has been used to ensure compliance with design requirements for drainage, access, building size and location, landscaping and parking. A number of towns now conduct site plan review via a special permit process. In 1985, the town of Framingham incorporated the imposition of impact fees into site plan review. This approach has not been tested in court.

In Massachusetts, it is permissible to require that every project in a zoning district submit to site plan review.

Of 80 communities surveyed in metropolitan Boston, 68 use some form of site plan review. Commercial business uses are regulated in 54 communities and industrial uses are reviewed in 44 communities. Residential developments, particularly multi-family projects and large subdivisions, are subject to site plan review in 35 communities.

## Advantages

- Permits a community to balance its needs and limitations within certain constraints.
- Assures compliance.
- Improves administration.

## Limitations

- Constrains a review board's ability to negotiate because of the limited scope of review.
- Involves detailed review of projects, taxing a board's resources.

## Prerequisites for Use

- Provide site-design guidelines and review standards in zoning.

## Some Examples of Where It Is Used in Massachusetts

Acton	Dedham	Marlborough	Pembroke	Walpole
Ashland	Dover	Marshfield	Randolph	Waltham
Bedford	Foxborough	Maynard	Reading	Wayland
Bellingham	Framingham	Medfield	Rockland	Wellesley
Beverly	Franklin	Medway	Scituate	Wenham
Bolton	Hamilton	Middleton	Sharon	Weston
Boxborough	Hanover	Milford	Sherborn	Westwood
Braintree	Hingham	Milton	Southborough	Weymouth
Burlington	Hopkinton	Natick	Stoneham	Wilmington
Canton	Lexington	Needham	Stoughton	Winchester
Carlisle	Lincoln	Norfolk	Stow	Woburn
Cohasset	Littleton	Norwell	Sudbury	Wrentham
Concord	Lynnfield	Norwood	Topsfield	
Danvers	Marblehead	Peabody	Wakefield	

## Information Location

*Growth Management Techniques*, Metropolitan Area Planning Council (1978).

*Land-Use Manager*, Vol. 2, Eds. 1 and 2, Executive Office of Communities and Development (1985).

## Complementary Tools

Cluster zoning, planned unit development.

# PERFORMANCE STANDARDS

## Description

Performance standards determine acceptable levels of noise, glare, dust, toxic emissions, vibration, heat, odors, electrical disturbance and erosion. These standards are usually imposed in conjunction with use and intensity limits.

Performance standards for sensitive lands are designed to protect environmental features such as aquifers, wetlands, shorelands, flood plains, and stream and river watersheds. The standards are designed to allow, rather than ban development that will not interfere with the functions of these sensitive areas.

## Advantages

- Focuses additional regulations on specific impacts without burdening all uses in a zoning district.
- Regulates development impacts, without prohibiting development.

## Limitations

- Changes in standards and sensitivities to emissions, etc., require more frequent amendments to bylaws.

## Prerequisites for Use

- Establish clear and objective review standards.
- Develop guidelines for reviewing board.
- Treat similar uses in a like manner.

## Some Examples of Where It is Used in Massachusetts

Ashland	Foxborough	Marblehead	Norfolk	Stoneham
Bedford	Framingham	Marshfield	No. Reading	Stoughton
Bellingham	Franklin	Maynard	Pembroke	Stow
Boxborough	Gloucester	Medway	Rockland	Wayland
Braintree	Hanover	Middleton	Rockport	Westwood
Burlington	Holliston	Milford	Sandwich	Weymouth
Cambridge	Lincoln	Millis	Sharon	Winthrop
Duxbury	Littleton	Natick	Sherborn	

## Information Location

Thurrow et al., "Performance Controls for Sensitive Lands," *Planners Advisory Service*, Report #307, 308 (1975).

*Model Community Noise Ordinance*, Metropolitan Area Planning Council (1979).

## Complementary Tools

Special permits, site plan review.



# ARCHITECTURAL DESIGN DISTRICTS

## *Description*

Architectural design districts impose aesthetic or design standards on development. Standards may regulate features such as building mass, scale and texture, roof pitch and window patterns, and may be included in the zoning bylaws.

The purpose of these districts is to ensure architectural or design compatibility with prevailing designs.

## **Advantages**

- Prevents further architectural incompatibility.

## **Limitations**

- May encourage an unvarying design pattern.

## **Prerequisites for Use**

- Analysis of architectural styles in use.

## **Where It is Used in Massachusetts**

Dover	Lowell
Holliston	Mashpee
Lexington	Sherborn
Littleton	Sudbury

## **Information Location**

Information not available.

## **Complementary Tools**

Special permits, site plan review.

# CLUSTER DEVELOPMENT

## Description

Cluster development reduces zoning requirements for minimum lot sizes, frontage and building setbacks, if land thereby gained is preserved as open space. The purpose of cluster zoning is to preserve open space and other natural features, to provide an alternative to standard subdivisions, and to reduce the costs of road and utilities construction.

The number of units in a cluster may be the same number allowed in a standard subdivision, or include additional units called density bonuses. Density bonuses may be given for the inclusion of preferred features such as: the preservation of significant additional open space, an extension of water and sewer lines, or the inclusion of affordable housing units. Bonuses must be clearly defined in zoning regulations.

## Advantages

- Encourages more flexible site design.
- Preserves open space at low cost to the town.
- Provides an alternative residential development pattern.
- Provides an incentive (lower development costs) for private investment.

## Limitations

- The required open space may not be properly maintained or available to the general public.

## Prerequisites for Use

- Specify the minimum size for a cluster development tract.
- Establish guidelines for open space uses, ownership and maintenance.
- Define allowable density and provide density bonuses, if any.

## Some Examples of Where It Is Used in Massachusetts

Acton	Duxbury	Lincoln	Peabody	Wenham
Ashland	Foxborough	Manchester	Sharon	Weston
Bedford	Franklin	Marshfield	Sherborn	Westwood
Bellingham	Gloucester	Medfield	Southborough	Winchester
Beverly	Hamilton	Millis	Stoughton	Woburn
Braintree	Holliston	Milton	Stow	
Cohasset	Ipswich	Natick	Topsfield	
Danvers	Lexington	No. Reading	Wellesley	

## Information Location

*Growth Management Techniques*, Metropolitan Area Planning Council (1978).

Katherine Kulmala, *Cluster Zoning in Massachusetts*, The Planning Services Group, Inc. (Cambridge, MA: 1970).

Massachusetts General Laws, Chapter 40A, Sections 2 and 9.

## Complementary Tools

Planned unit development, site plan review, special permits.



# PLANNED UNIT DEVELOPMENT

## *Description*

In a planned unit development, subdivision and zoning regulations apply to the whole project rather than its individual lots. Densities are calculated on a project-wide basis, and residential, commercial, and industrial uses are allowed as are a variety of building types and requirements for open space.

Planned unit development encourages comprehensive rather than piecemeal development of an area and provides alternative development patterns.

## **Advantages**

- Allows for more flexible land-use regulations.
- Provides opportunity for innovative mixed-use developments.
- Promotes comprehensive site development.
- May reserve open space at a low cost.

## **Limitations**

- Sometimes perceived by local officials as a way of bringing an urban environment into a suburban setting.

## **Prerequisites for Use**

- Specify uses and minimum sizes for innovative mixed-use developments.
- Should be sensitive to mixed uses and their proximity to each other.

## **Some Examples of Where It Is Used in Massachusetts**

Duxbury  
Foxborough  
Lincoln  
Natick  
North Reading  
Scituate

## **Information Location**

*Growth Management Techniques*, Metropolitan Area Planning Council (1978).  
Massachusetts General Laws, Chapter 40A, Section 9.

## **Complementary Tools**

Special permits, site plan review, subdivision regulations, performance standards.

# TRANSFER OF DEVELOPMENT RIGHTS

## *Description*

The transfer of development rights separates the right to develop a property from the property rights associated with land ownership. Property owners in "sending zones" transfer their development rights to land parcels in "receiving zones." The property in the sending zone is then limited in its future development. The most common method of transfer is the selling of property rights.

A Transfer of Development Rights program influences the location of development and compensates property owners for inequities that may arise when land-use regulations restrict the use of land.

## **Advantages**

- Promotes development in desirable locations.
- Preserves lands at low public cost.
- Provides economic relief to property owners affected by land use regulations.

## **Limitations**

- Assessing the value of development rights is difficult.
- Locating potential "target" sites for receiving development rights is difficult.

## **Prerequisites for Use**

- Locate lands capable of supporting higher development densities.
- Ensure economic potential parity between sending and receiving zones.
- Define method of calculating development rights.

## **Some Examples of Where It Is Used in Massachusetts**

Bedford  
Concord  
Falmouth

## **Information Location**

Brower, Carraway, Pollard, Propst, *Managing Development in Small Towns*, American Planning Association (Chicago: 1984).

Massachusetts General Laws, Chapter 40A, Section 9.

## **Complementary Tools**

Overlay districts

# RESIDENTIAL DEVELOPMENT SCHEDULING

## Description

Residential development schedules regulate the number of new dwelling units that may be built in subdivisions or multi-family housing developments during a given time period. It enables a municipality to coordinate its growth rate with the availability of municipal services and infrastructure. Massachusetts towns using development schedules may require that developers sign a covenant stating when specific lots will be built upon or when dwelling units in multi-family projects will be constructed. This covenant is filed with the definitive plan at the registry of deeds. Alternatively, the community may simply limit the number of housing units to be developed per year in a subdivision and not require the developer to state where particular units will be built.

Scheduling the rate of individual developments does not guarantee a definite town-wide building rate because there are usually exceptions made for small developments and pre-existing vacant lots. Additionally, developments believed to be important to the community, such as those containing affordable housing, may be exempted from development scheduling.

Because some planners and attorneys are concerned that this planning technique could be affected by the recent Supreme Court case, *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, communities should consult their legal counsel prior to adoption.

## Advantages

- Treats all similar developments in the same manner.
- Encourages desirable development by varying schedule or granting exemptions based upon well-defined standards.
- Easy to administer.
- Allows a community to absorb growth at a reasonable rate.

## Limitations

- Places some economic costs on property owners.
- Reduces tax base, if tax abatements are granted because of economic loss.

## Prerequisites for Use

- Evaluate the municipal capacity to absorb growth.
- Determine the impact of residential units on municipal capacity.
- Calculate the existing development potential and optimum growth rate.
- Identify development types to be exempted (if any).
- Design a capital improvements program.
- A significant percentage of land should be vacant.

## Some Examples of Where It Is Used in Massachusetts

Ashland	Falmouth	New Braintree	Rockport	Sterling
Blackstone	Groton	N. Brookfield	Sandwich	Walpole
Bourne	Hanover	Orleans	Sharon	

## Information Location

*Growth Management Manual*, Metropolitan Area Planning Council (1978).

## Complementary Tools:

Phased development

# COMMERCIAL DEVELOPMENT SCHEDULING

## *Description*

A commercial development schedule regulates the amount of development that may occur on commercial sites within a given time period. The limit is imposed either when the building inspector issues a building permit or as a condition of a special permit. Typically, the development schedule limits the square footage of all buildings on the site. Additional square footage may be allowed if the development provides benefits such as above average site and building design or generates lower than average traffic.

Development scheduling helps a community to coordinate commercial growth with its ability to provide services and infrastructure, especially the capacity of local roads to accommodate traffic.

Because some planners and attorneys are concerned that this planning technique could be affected by the recent Supreme Court case, *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, communities should consult their legal counsel prior to adoption.

## **Advantages**

- Similar developments are equally affected by growth rate limitations.
- Encourages desirable development by granting bonuses.
- Allows communities to absorb growth at a reasonable rate.

## **Limitations**

- May increase land costs.
- May cause businesses with large area requirements to locate elsewhere.
- Possible economic loss to property owners.
- Reduced tax base, if property tax abatements are granted.

## **Prerequisites for Use**

- Evaluate municipal capacity to absorb new growth.
- Design capital improvements program.
- Calculate existing development potential and optimum growth rate.
- Enumerate development types to be exempted (if any).

## **Some Examples of Where It Is Used in Massachusetts**

Orleans

## **Information Location**

Information not available.

## **Complementary Tools**

Phased development



# DEVELOPMENT IMPACT SCHEDULING

## *Description*

A development impact schedule limits the rate at which certain land-use impacts -- traffic, water consumption, and sewage -- would be allowed to increase on a site within a given time period. These limits must be directly related to existing documented constraints and clearly specified in zoning bylaws.

In residential developments the restrictions would be imposed at the time of subdivision approval or, in the case of multi-family developments, special permit review. Commercial developments would be reviewed by the building inspector as construction permits are applied for or as a special permit review is conducted.

Because some planners and attorneys are concerned that this planning technique could be affected by the recent Supreme Court case, *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, communities should consult their legal counsel prior to adoption.

## **Advantages**

- Growth limitations are specifically related to preventing undesirable impacts.
- Allows desirable growth to continue at a normal pace.
- Affects all developments with similar impacts equally.

## **Limitations**

- Defers economic gain for property owners.
- Reduces tax base if abatements are granted.

## **Prerequisites for Use**

- Identify areas with severe infrastructure or environmental constraints.
- Set clear and objective standards for project review.
- Treat all similar impacts equally.

## **Some Examples of Where It Is Used in Massachusetts**

Brewster (considered, but did not pass a new sewage disposal limitation)

## **Information Location**

Information not available.

## **Complementary Tools**

Performance standards

# PHASED DEVELOPMENT

## *Description*

Phased development regulates the timing and geographic distribution of building and encourages developments to locate near municipal infrastructure and services. Each development proposal is ranked by points based on the proximity of public services such as sewer and water systems, police and fire stations, and public schools. If a proposed project does not obtain the required number of points, the project will not be approved unless the developer agrees to provide certain services for the development. By favoring developments near public services and infrastructure, sprawled growth patterns and the cost of expanding public utilities are minimized. Communities may also consider phasing based on a percentage of the total units and not use a point system.

Because some planners and attorneys are concerned that this planning technique could be affected by the recent United States Supreme Court case, *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, communities should consult their legal counsel prior to adopting it.

## **Advantages**

- Ensures adequate services for growth.
- Discourages sprawled growth patterns.

## **Limitations**

- Creates windfall profits for some property owners and defers economic gain for others.

## **Prerequisites for Use**

- Design and implement capital improvement program.
- Develop standards for evaluating development proposals.

## **Some Examples of Where It Is Used in Massachusetts**

Salem

## **Information Location**

*Growth Management Techniques*, Metropolitan Area Planning Council (1978).

## **Complementary Tools**

Comprehensive plan, special permits, site plan review, capital improvement plan, health board moratorium.

# BUILDING MORATORIUM

## Description

Building moratoria prohibit the issuance of building permits during a given time period for specified land uses and/or project sizes usually allowed under zoning.

In Massachusetts, moratorium restrictions must be linked directly to a project planning issue, identified by the town through a planning process which also identifies measures to mitigate that specific issue. The moratorium should also permit some use of the land by the owner during the moratorium.

Like other zoning amendments, a building moratorium goes into effect on the date it is first advertised for a planning board hearing. This prevents a large number of plans from being submitted between the time the amendment becomes general knowledge and is voted upon.

Because some planners and attorneys are concerned that this planning technique could be affected by the recent United States Supreme Court case, *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, communities should consult their legal counsel prior to adopting it.

## Advantages

- Prevents expansion or intensification of existing problems during the moratorium.
- Allows "breathing time" for a community to examine pressing planning issues.

## Limitations

- Protects existing uses from limitations specified in moratorium.
- Defers economic gain to property owners.
- Causes a rush of projects just before a moratorium is advertised.
- Does not affect the zoning of lots created (by the filing of a subdivision plan) before the final municipal vote to adopt the moratorium.

## Prerequisites

- Specify immediate and significant land-use problem.
- State specific time limitation for moratorium.
- Enumerate planning strategies to ameliorate planning problem.

## Some Examples of Where It Is Used in Massachusetts

Belmont	Gloucester	Sharon
Danvers	Manchester	Wakefield
Duxbury	Middleton	
Franklin	Millis	

## Information Location

*Growth Management Techniques*, Metropolitan Area Planning Council (1978).

*Land-Use Manager*, Vol. 3, Ed. 7, Executive Office of Communities and Development (1986).

## Complementary Tools

Comprehensive plan, subdivision moratorium



# LIMITED SUBDIVISION MORATORIUM

## *Description*

A limited subdivision moratorium prohibits subdivisions unless they can be tied into the local sewer system. The purpose of the moratorium is to allow time for a community to study and protect water resources from contamination caused by inappropriate development. Therefore, these moratoriums are justifiable only where water-resource protection is a valid concern and when a study is contemplated or underway.

The legality of broader subdivision moratoriums is unclear since state subdivision law does not include the power to reject subdivision proposals without cause.

## **Advantages**

- Prevents the creation of lots in unprotected water-resource areas.
- Restricts building potential.

## **Limitations**

- Defers economic gain.

## **Prerequisites for Use**

- Specify immediate and significant problem.
- State specific time limit on moratorium.
- Enumerate planning strategies to ameliorate planning problem.

## **Some Examples of Where It is Used in Massachusetts**

Barnstable

## **Information Location**

Information not available.

## **Complementary Tools**

Building moratorium

# ANNUAL BUILDING LIMITATION

## *Description*

An annual building limitation restricts the amount of residential, commercial, and/or industrial development that may occur in a municipality or portion thereof in a year. The restriction may be based on the number of residential building permits issued or the number of square feet permitted for commercial/industrial development.

Once the limit has been established, an equitable system for distributing permits must be established. Some communities use a lottery system, others use a first-come, first-served method, while others establish design criteria and select the most desirable development.

The annual limit should be based on the goals of a comprehensive plan. Because of the limited use of annual building limitation as a growth management tool and the lack of extensive legal review, municipalities should consult with legal counsel prior to its enactment.

## **Advantages**

- Provides time to plan municipal infrastructure and services.

## **Limitations**

- Defers economic gain for property owners.

## **Prerequisites for Use**

- Comprehensive Plan
- Document constraints which lead to annual limitation.

## **Some Examples of Where It Is Used in Massachusetts**

Orleans

## **Information Location**

Brower, et al., *Managing Development in Small Towns*, American Planning Association (Chicago: 1984).

## **Complementary Tools**

Comprehensive plan, development scheduling, phased development.

# ABSOLUTE BUILDING LIMITATION

## Description

Absolute building limitations control the final level of residential, commercial, and/or industrial development that may occur within a municipality. Absolute limitations usually regulate the number of dwelling units and nonresidential square footage permitted, although size could also be defined in terms of population.

These limits must be based on the ability of the community to absorb growth both in an environmental and financial capacity. They must be rational and applied in an equitable manner. In many ways towns are already limiting the overall growth that may occur in their towns. Zoning districts, minimum lot size, lot coverage limitations and use restrictions all limit the amount of growth that may take place.

No community in Massachusetts has enacted an explicit absolute limit on growth. It is therefore unclear whether it would be upheld if challenged in court.

## Advantages

- Limits growth to appropriate level.

## Limitations

- Provides windfall profits for some property owners and economic losses for others.
- May discourage appropriate development.

## Prerequisites for Use

- Current comprehensive plan.
- Determine municipal capacity to support growth.
- Ensure that building limitation does not discriminate against particular groups.

## Some Examples of Where It is Used in Massachusetts

None

## Information Location

Brower, et al., *Managing Development in Small Towns*, American Planning Association (Chicago: 1984).

## Complementary Tools

Comprehensive plans, development schedules.

# INCLUSIONARY HOUSING PROGRAMS (INCENTIVE ZONING)

## *Description*

Inclusionary housing programs (incentive zoning) require residential developers, seeking special permits for density increases or rezoning to allow for multi-family developments, to set aside a minimum number or a percentage of units for households at a specific lower-income level. The required units may be located elsewhere in the municipality, or a developer can contribute cash in lieu of the units. The local ordinance will often state how the affordable units will be managed and protected as affordable over a period of time.

Inclusionary housing programs represent a significant change in zoning and land-use practices in two important ways:

Instead of relying on state and federal subsidies for the protection of low- and moderate-income housing, inclusionary housing programs rely on local land-use incentives to encourage developers to carry at least part of the cost.

Most programs foster the construction of residential developments which are socio-economically integrated. This is in sharp contrast to past public housing efforts which generally created dense, single site, low-income housing projects, often isolated from other residential developments in the community.

## **Advantages**

- Provides housing opportunities for diverse household types and income levels within the community and as part of other residential developments.
- Recaptures some of the values allotted to developers who receive density bonuses or zoning changes.

## **Limitations**

- Alone, inclusionary housing programs/incentive zoning are no cure for the housing crisis. These programs produce only a small amount of affordable housing and depend on the amount of development occurring within the community.
- These programs incur local administrative and managerial costs.
- In most cases, communities must be willing to provide density bonuses or other incentives to make the development feasible.

## **Prerequisites for Use**

- Evaluate local housing needs and conditions
- Adopt a municipal zoning ordinance or bylaw which establishes the requirements of the program based on local resources and the needs of those targeted to benefit from the program.

## **Some Examples of Where It is Used in Massachusetts**

Lexington      Newton

## **Information Location**

*Inclusionary Housing and Linkage Programs in Metropolitan Boston*, Metropolitan Area Planning Council (1986).

Alan Mallach, *Inclusionary Housing Programs: Policies and Practices*, Center for Urban Policy Research (1984).

## **Complementary Tools**

Linkage, impact fees.



## **D** *Nonzoning Regulations*

---





# SUBDIVISION CONTROL

## *Description*

The subdivision control law regulates the division of a parcel of land. Its purpose is to insure that all lots have safe and adequate access and that public health and safety considerations are adequately addressed. A subdivision is not regulated if each proposed new lot has adequate frontage and access on a public way or road in place when the subdivision regulations are adopted.

Local subdivision regulations control the design of a development's drainage, utilities and roads, including layout and paving widths, construction materials, sight distances from curves and vertical slopes of any remaining hills. The regulations may also control other design aspects and amenities along the subdivision's roads, such as the provision of shade trees.

The planning board of each community adopts subdivision regulations and has the power to waive any of the specified requirements. A developer's request for a waiver may be granted in exchange for meeting certain public objectives. For example, the board may allow a narrower or unpaved road if the developer agrees to avoid environmentally sensitive areas. Agreements might also be made concerning off-site improvements related to the project.

The planning board may require that a reasonable portion of the subdivision be set aside for recreational use and not be developed for three years. This regulation allows the town the time to purchase important lands. However, no subdivision regulation may require that a parcel of land be set aside for public purposes for more than three years without just compensation.

## **Advantages**

- May be adapted for individual sites and developments.
- Insures that lots have safe and adequate access.

## **Limitations**

- Limits the imposition of off-site impacts.

## **Prerequisites for Use**

- None

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

Massachusetts General Laws, Chapter 41, Sections 81K-81GG.

*Land Regulation*, Metropolitan Area Planning Council (1985).

*Nonzoning Land-Use Protection Techniques*, Metropolitan Area Planning Council (1978).

## **Complementary Tools**

Zoning regulations, cluster subdivision, planned unit development.

# **PUBLIC HEALTH; TITLE V**

## ***Description***

Local boards of health protect and regulate public health and safety concerns by establishing regulations and inspecting nonresidential establishments, monitoring septic system construction, regulating sewer and water connections, and reviewing subdivision plans. However, once a lot is created it is protected from regulatory changes for three years.

When a definitive subdivision plan is submitted to the planning board, a copy of that plan must be filed with the board of health. Within 45 days of the filing, the health board must report in writing any objections to the planning board. Failure to file the report is considered approval of the plan. If the subdivision plan does not comply with board of health recommendations, the planning board must disapprove the plan.

## **Advantages**

- Wide latitude to protect public health.
- Action may be taken quickly.

## **Limitations**

- Activities failing board inspection may face major economic losses due to closure.
- Often difficult to prove direct relationship between a single activity and danger to public health.

## **Prerequisites for Use**

- Clear and immediate danger to public health.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

Massachusetts General Laws, Chapter 111, Chapter 41, Section 81-U.

## **Complementary Tools**

Moratoriums, subdivision regulations

# THE WETLANDS PROTECTION ACT

## *Description*

The Wetlands Protection Act (WPA) regulates work which may affect areas adjacent to or in any marsh, meadow, swamp, bog, bank, beach, or dune bordering either a lake, creek, stream, river, pond, estuary, or the ocean. In addition it governs lands subject to flooding, to coastal storm flow and tidal action.

Marshes, wet meadows, swamps and bogs, classified as Bordering Vegetated Wetlands, are considered to be the most important water resources protected by the WPA. Under the Act, no destruction or impairment of these areas is permissible. Beaches, banks and dunes, known as Resource areas, are also important. Work in these areas must not affect: bank physical stability, water carrying capacity, ground and surface water quality, breeding habitat, escape cover, and food for fisheries.

## **Advantages**

- Effectively protects critical resources.

## **Limitations**

- Undetermined

## **Prerequisites for Use**

- Adopt the Conservation Commission Act.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Environmental Handbook for Massachusetts Conservation Commissioners*, Mass. Association of Conservation Commissions, Inc. (Medford, MA: Lincoln-Filene Center, Tufts University, 1985).

## **Complementary Tools**

Town bylaws, overlay districts, performance standards.

# FARM ASSESSMENT ACT

## *Description*

The Farm Assessment Act permits a municipality to assess the value of a parcel of land based upon its use for agricultural or horticultural purposes, if two criteria are met. First, the parcel of land must be at least five acres. Second, it must be used for horticulture or agriculture for the year in consideration and the two immediately preceding years.

Whenever the use of assessed land changes, it is subject to additional taxes known as roll-back taxes. The roll-back tax is applied to the current year and previous four years. For each year, the tax equals the difference between taxes paid and taxes that would have been paid if the land had been assessed without regard to this Act.

## **Advantages**

- Provides tax relief to specific types of uses.
- May help prevent loss of farmlands.

## **Limitations**

- Protection is not necessarily permanent.
- Roll-back taxes are not large enough to discourage land use change.

## **Prerequisites for Use**

- Identify farmlands meeting the criteria of the Farm Assessment Act.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Environmental Handbook for Conservation Commissioners*, Mass. Association of Conservation Commissions, Inc. (Medford, MA: Lincoln-Filene Center, Tufts University, 1985).

Massachusetts General Laws, Chapter 61A.

## **Complementary Tools**

Forest Assessment Act



# FOREST ASSESSMENT ACT

## *Description*

The Forest Assessment Act allows a municipality to assess forest lands on their value as forests, provided the tract of land is at least 10 contiguous acres and the owner has designed a forest management plan. Buildings, structures and the land on which they are located shall not be assessed under this Act.

The owner of the land shall pay a products tax and a land tax. When the owner of classified forest land withdraws the land a penalty tax must be paid. That tax is equal to the difference between taxes that would have been paid if the land was not under special assessments and the sum of the products tax and land tax for the preceding five years.

## **Advantages**

- Relieves some of the economic pressure to develop forest lands.
- May help prevent loss of farmlands.

## **Limitations**

- The penalty tax may not be large enough to provide forests long-term protection.

## **Prerequisites for Use**

- Identification of forest lands meeting criteria.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Environmental Handbook for Massachusetts Conservation Commissioners*, Mass. Association of Conservation Commissions, Inc. (Medford, MA: Lincoln-Filene Center, Tufts University, 1985).

1985 Massachusetts General Laws, Chapter 61.

## **Complementary Tools**

Farm Assessment Act, conservation restrictions.

# CONSERVATION RESTRICTIONS

## *Description*

A conservation restriction is a written agreement between a property owner and a conservation commission whereby the owner agrees to keep the land in a predominantly natural state. Restrictions should provide the following benefits: they should cost less than the purchase price of the property; the property owner should still pay some taxes; the owner will still be able to use the land for conservation, recreation, and/or agricultural uses and; the owner must maintain the property without cost to the town.

## **Advantages**

- Preserves open space at low cost to the community.
- Provides long-term protection.

## **Limitations**

- None

## **Prerequisites for Use**

- Identify parcels of land providing the benefits outlined in the description.

## **Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Environmental Handbook for Massachusetts Commissioners*, Mass. Association of Conservation Commissions, Inc., (Medford, MA: Lincoln-Filene Center, Tufts University, 1985).

Massachusetts General Laws, Chapter 181, Sections 31, 32, 33.

## **Complementary Tools**

Farm Assessment Act, Forest Assessment Act, Easements.



# EARTH REMOVAL

## Description

Earth removal regulations are contained in either the zoning or general bylaws and limit the amount of dirt or gravel that may be removed from a site over a given time. Excessive earth removal may cause both on- and off-site erosion and drainage problems, damage vegetation, disturb wildlife, create dust and visual eyesores.

These bylaws are some of the most common in metropolitan Boston. Of 78 communities surveyed, 66 use earth removal bylaws. Thirteen communities place earth removal regulations in general town bylaws and in two communities earth removal is reviewed by the conservation commission.

## Advantages

- Effectively protects existing topography.

## Limitations

- Undetermined

## Prerequisites for Use

- None

## Some Examples of Where It is Used in Massachusetts

Acton	Framingham	Marblehead	Saugus	Woburn
Ashland	Franklin	Marlborough	Scituate	Wrentham
Bedford	Gloucester	Marshfield	Sharon	
Bellingham	Hamilton	Maynard	Sherborn	
Beverly	Hanover	Medfield	Southborough	
Bolton	Hingham	Medway	Stoneham	
Boxborough	Holbrook	Milford	Stoughton	
Braintree	Holliston	Milton	Stow	
Burlington	Hopkinton	Natick	Sudbury	
Canton	Hudson	Needham	Topsfield	
Carlisle	Ipswich	No. Reading	Wakefield	
Cohasset	Lexington	Norwell	Walpole	
Concord	Lincoln	Norwood	Wenham	
Danvers	Littleton	Peabody	Weston	
Dover	Lynnfield	Reading	Westwood	
Duxbury	Manchester	Rockland	Winchester	

## Information Location

*Nonzoning Land-Use Protection Techniques*, Metropolitan Area Planning Council (1978).

## Complementary Tools

Performance standards

# HISTORIC DISTRICTS

## *Description*

Historic districts are defined by the Massachusetts General Laws as areas in which buildings and places of significant historic or architectural value may be protected. Commissions overseeing an historic district may review any change on a building that affects an exterior architectural feature visible from a public area. The community may designate limits on this power and exempt certain features such as: signs; architectural accessory features at grade such as terraces, driveways and sidewalks; fences, and the color of buildings and roofs. When reviewing a project, the commission considers the historic and architectural value of the site or building, the general design, texture, materials, and the relationship of the site and building to the surrounding area.

## **Advantages**

- Targets regulations to specific area.
- Preserves historic resources.
- Provides a public review process which subjects projects to further evaluation.

## **Limitations**

- May increase maintenance costs by requiring more costly building materials.
- Not an objective review standard.

## **Prerequisites for Use**

- Conduct inventory to determine historic or architectural significance of district.
- Designate limitations, if any, on commission's powers.

## **Some Examples of Where It is Used in Massachusetts**

Belmont  
Boston (several districts)  
Cambridge  
Chatham  
Marblehead  
Nantucket  
Sandwich, Barnstable, Yarmouth, Dennis, Brewster  
(The Old Kings Highway Regional Historic District)

## **Information Location**

*Nonzoning Land-Use Protection Techniques*, Metropolitan Area Planning Council (1978).  
Massachusetts General Laws, Chapter 40C.

## **Complementary Tools**

Design review, site plan review, and special permits.

# SCENIC ROADS

## *Description*

Scenic roads regulations require planning board approval for any maintenance, reconstruction, or paving on scenic roads, if the work requires the cutting or removal of trees or the destruction of stone walls. After the public works department has notified the planning board that it intends to make improvements to a scenic road, the planning board must hold a public hearing prior to approval, disapproval, or recommendations to modify the proposed improvements.

## **Advantages**

- Protects an important, visible aspect of New England's heritage.

## **Limitations**

- Often requires that a balance be reached between safety and aesthetics.

## **Prerequisites for Use**

- Designate roads considered scenic.
- Establish criteria to determine designation of scenic roads.

## **Some Examples of Where It is Used in Massachusetts**

Acton	Carlisle	Maynard	Sandwich
Boxborough	Littleton	Milford	Sharon

## **Information Location**

*Nonzoning Land-Use Techniques*, Metropolitan Area Planning Council (1978).

Massachusetts General Laws, Chapter 40, Section SC.

## **Complementary Tools**

Public Shade Trees Act.

# PUBLIC SHADE TREES ACT

## *Description*

The Public Shade Trees Act states that no one may cut, trim, or remove any tree touching a public right-of-way without a hearing before the local tree warden. However, this prohibition does not include the mayor, selectmen, or highway surveyor if they conclude that the trees "obstruct, endanger or hinder" persons using a road. The selectmen or road commissioners may also allow the removal of trees when they grant a permit to move a building.

## **Advantages**

- Protects specific natural resources.
- Balances public safety and aesthetic concerns.

## **Limitations**

- Exemptions listed above may permit so many trees to be cut that the bylaw is not effective.

## **Prerequisites for Use**

- None

## **Some Examples of Where It is Used in Massachusetts**

Milford

## **Information Location**

Massachusetts General Laws, Chapter 87.

*Nonzoning Land-Use Protection Techniques*, Metropolitan Area Planning Council (1978).

## **Complementary Tools**

Scenic roads bylaws

## **E** *Land Acquisition Programs*

---





# FEE SIMPLE LAND ACQUISITION

## *Description*

Fee simple land acquisition is the necessary full title purchase of property a community needs to achieve specific goals. Historically, communities have purchased parcels to provide recreation and conservation lands for their residents. Today the purposes of land acquisition include aquifer and watershed protection, population and development level limitation, protection of historic sites, industrial park projects and affordable housing developments.

The Massachusetts Executive Office of Environmental Affairs (EOEA) administers the Self-Help Program through the Division of Conservation Services which will reimburse a community up to 80 percent of the land acquisition cost. The community must have an up-to-date Conservation and Recreation Plan on file with the Division. Also within EOEA, the Department of Environmental Quality Engineering administers the Aquifer Lands Acquisition grant program which provides grants for municipalities to purchase and protect land in the aquifers of public drinking water supplies.

## **Advantages**

- Effectively protects land and critical resources or promotes desirable development.
- Compensates landowner.

## **Limitations**

- Very expensive.
- Appropriation of funding may be too slow to purchase desired land.
- Feasible only on limited scale.

## **Prerequisites for Use**

- Availability of funding.
- Currently approved open space and recreation plan.
- Time to appropriate funds.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Environmental Handbook for Massachusetts Conservation Commissioners*, Mass. Association of Conservation Commissions (Medford, MA: Lincoln-Filene Center, Tufts University, 1985).

## **Complementary Tools**

Land banking, real estate transfer tax, land write down.

# DEVELOPMENT RIGHTS ACQUISITION

## *Description*

Development rights acquisition is an appropriate action when a community does not need complete control over a parcel of land to achieve its goals. For example, a community may want to protect a local farm or historic property from development. In the case of a farm, the community may calculate and pay any financial gain the farmer could reasonably expect from the sale of the farm. In return, the farmer would agree to continue farming for a specific number of years. The Executive Office of Environmental Affairs administers an Agricultural Preservation Program which provides funds for communities to acquire needed land.

Conservation or preservation restriction rights may also be used to purchase land for other purposes, such as open space or historic preservation.

## **Advantages**

- Prevents land use changes.
- Compensates landowners fairly, preventing economic loss.

## **Limitations**

- Difficult to calculate future rate of return on land parcel.
- May be difficult to ensure continuation of specific activity.

## **Prerequisites for Use**

- Availability of funding.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Environmental Handbook for Massachusetts Conservation Commissioners*, Mass. Association of Conservation Commissions (Medford, MA: Lincoln-Filene Center: Tufts University, 1985).

Massachusetts General Laws Chapter 184, Sections 31, 32, and 33;  
Chapter 322, Sections 1 and 2.

## **Complementary Tools**

Transfer of development rights, real estate transfer tax, preferential tax assessment.

# EASEMENT (Conservation, Historic, Agricultural)

## *Description*

An easement is an agreement that gives a person (or the general public) the right to use property in a specific manner, even though that person does not own the land. Conservation, agricultural, and historical preservation restrictions are the most common form of easements used in Massachusetts. The preservation of privately-owned open space will allow any property to be eligible for a conservation restriction. Prime agricultural lands may be protected by the use of the agricultural restrictions. Historic structures and properties may receive much stronger protection under an historic restriction because the agreement is voluntary.

A restriction must meet certain criteria. The easement should cost less than the purchase price; some property taxes must still be paid; the owner will have some use of the land and be responsible for maintenance.

## **Advantages**

- Allows sufficient protection without acquiring land.
- Apportions costs equitably.
- Targets specific parcels for effective protection.

## **Limitations**

- Easements may only be temporary.

## **Prerequisites for Use**

Good communication among selectmen, the conservation commission, and state agencies.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

*Environmental Handbook for Massachusetts Conservation Commissioners*, Mass. Association of Conservation Commissions, (Medford, MA: Lincoln-Filene Center, Tufts University, 1985).

Massachusetts General Laws Chapter 184, Sections 31, 32, and 33; Chapter 232 Sections 1 and 2.

## **Complementary Tools**

Preferential tax assessment, historic districts, development rights acquisition.

# LAND BANKING

## *Description*

Land banking is the public acquisition of lands that will eventually be developed, either by public agencies or private developers, once the lands are placed back on the market. In a growth management program, this allows a community to influence the location and rate of growth by selecting the parcels to be sold.

This technique is particularly useful for guaranteeing an appropriate use for key parcels, whether the future use be open space, housing, commercial, etc.

## **Advantages**

- Effectively determines the location of growth.
- Reduces financial burden on individual property owners.
- All property owners forced to bear some costs of growth management.

## **Limitations**

- Potential disruption of land markets.

## **Prerequisites for Use**

- Large tracts of undeveloped lands.

## **Some Examples of Where It is Used in Massachusetts**

Nantucket

## **Information Location**

Brower et al., *Managing Development in Small Towns*, American Planning Association (Chicago).

## **Complementary Tools**

Real estate transfer tax.

# PRIVATE LAND TRUST

## Description

A private land trust provides funding to acquire land and development rights in order to protect open space. The trust competes in the landmarket with other purchasers. The only economic advantage a land trust may have in the market is that any difference between the sale price and fair market value may be taken as a tax deduction. The trust must meet certain criteria to obtain this tax deduction. However, there are persons who would prefer to donate their land to a trust, rather than see it developed at any point in the future.

Land trusts may also allow development that is compatible with open space and conservation goals. Generally, there are strict design criteria enforced through deed restrictions.

## Advantages

- Acts more quickly and discreetly than a public entity.
- Offers an alternative to government ownership.

## Limitations

- Possible increase in overall land prices and housing costs in other properties.

## Prerequisites for Use

- Open space must be available.

## Some Examples of Where It is Used in Massachusetts

Barnstable	Chatham	Mashpee	Sandwich
Bourne	Falmouth	Nantucket	
Brewster	Lincoln	Plymouth County	

## Information Location

Robert Lemire, *Creative Land Development*, (Boston: Houghton-Mifflin Co., 1979).

## Complementary Tools

Fee simple land acquisition, development.



# PREFERENTIAL ASSESSMENT AND ABATEMENT

## *Description*

Use-value assessments determine the value of land according to its current use, not its potential sale value when fully developed. Usually only certain categories of land -- open space, agriculture, or forests -- are taxed in this manner. For this reason it is known as preferential taxation.

To prevent use-value assessments from becoming a haven for land speculators, there are penalties for developing the land within a specified time period.

In Massachusetts, forests and farmland may qualify for this type of tax relief, if criteria under General Laws, Chapters 61 and 61A are met.

## **Advantages**

- Uses incentives, not restrictions to limit development.
- All taxpayers bear financial burden of growth management.

## **Limitations**

- Encourages leap frog development because land farthest from the development center is assessed less and will gain least from the program.

## **Prerequisites for Use**

- Large areas of farmland, forests, or open space.

## **Some Examples of Where It is Used in Massachusetts**

Acton  
Concord  
Lincoln  
Sudbury

## **Information Location**

*Environmental Handbook for Massachusetts Conservation Commissioners*, Mass. Association of Conservation Commissions, (Medford, MA: Lincoln-Filene Center, Tufts University, 1985).

## **Complementary Tools**

Development rights acquisition



**F** *Municipal Services and  
Infrastructure Provision*

---



# CAPITAL IMPROVEMENTS PROGRAM

## *Description*

A capital improvements program is a way to structure the timing of and to identify funding for a community's capital improvements, such as water and sewer systems, roads, schools, public buildings, recreation/open space areas, and other systems. The program includes a development schedule and a capital budget.

## **Advantages**

- Enables a community to phase an orderly expansion of its infrastructure and other necessary facilities.
- Helps a community identify needs, determine costs and who will pay for the improvements.

## **Limitations**

- May decrease the value of property where infrastructure is scheduled to be provided at later dates.
- Easier to institute a program in advance of a major development in a community.
- Major costs, if borne by the community, may have to be placed outside of the Proposition 2 1/2 Limit.

## **Prerequisites for Use**

- Requires a capital budget.

## **Some Examples of Where It is Used in Massachusetts**

Used throughout Massachusetts.

## **Information Location**

Information not available.

## **Complementary Tools**

Capital budget

# SERVICE LIMITATION OR PROVISION

## *Description*

The limitation or provision of services is the decision to provide a town or parts of a town with public sewers or water lines. A town may encourage development by providing these services. Conversely, towns often cite the lack of these services as a reason for requiring large lots and imposing use restrictions.

Possible conflicts arise between service provision or limitations and local growth management goals when local governments do not have control over the services. This is common in Massachusetts, where independent water and sewer districts determine service policies.

## **Advantages**

- May discourage development sprawl.

## **Limitations**

- May encourage faster growth rate.

## **Prerequisites for Use**

- Control over service provision or limitation decisions.
- Overall plan for orderly provision of services.

## **Some Examples of Where It is Used in Massachusetts**

Information not available.

## **Information Location**

Information not available.

## **Complementary Tools**

Sewer hook-up moratorium

# URBAN SERVICES CENTERS

## *Description*

Urban services centers are the sections of a town where municipal and private services (essential for residents) are located. Many of these services are land intensive and/or generate a lot of traffic. Concentrating services in one area prevents sprawled land-use patterns that occur when services are spread throughout the town. To encourage denser development around the service center, zoning should allow and guide this more dense level of development.

## **Advantages**

- Convenient access and location for service provision.
- Can be used to revitalize commercial areas.

## **Limitations**

- Noise, traffic, and urban atmosphere may be inconsistent with a town's self-image.

## **Prerequisites for Use**

- Areas with sufficient infrastructure and other services capable of supporting growth.

## **Some Examples of Where It is Used in Massachusetts**

Belmont

Lexington

## **Information Location**

Information not available.

## **Complementary Tools**

Capital budget

# MUNICIPAL FACILITIES LOCATION

## *Description*

The location of municipal facilities can have a dramatic influence on the desirability of neighborhoods. Elementary schools make neighborhoods attractive to young families. Police and fire stations provide a sense of safety, especially among the elderly. In contrast, municipal garages, storage areas, landfills, sewage treatment facilities, prisons, and airports make surrounding locations less desirable.

Communities have control over locating local facilities such as schools, police and fire, but may not have sufficient influence in county and state decision-making to successfully affect the siting decisions concerning regional facilities.

## **Advantages**

- "Free" planning benefits from municipal decision-making.

## **Limitations**

- Neighborhoods and property owners are not treated equally.

## **Prerequisites for Use**

Capital improvement program and comprehensive plan in place.

## **Information Location**

Information not available.

## **Complementary Tools**

Capital budget



# ROAD EXTENSION & ABANDONMENT

## *Description*

The decision to extend the public road system increases the development potential of properties abutting the new roads. First, new roads provide access at no cost to the developer. Second, land abutting new roads may be divided into lots without subdivision review because they will have adequate access and the frontage of a public road. The community may take advantage of this added development potential and aggressively use road construction to influence development location. This would be particularly successful if combined with water and sewer policies and zoning to control the type and density of new development.

## **Advantages**

- Town clearly defines where growth is likely to occur.
- May prevent development sprawl.
- Town has complete control over local public road improvements.

## **Limitations**

- Significant municipal expense.

## **Prerequisites for Use**

- Overall development plan

## **Some Examples of Where It is Used in Massachusetts**

Information not available.

## **Information Location**

Information not available.

## **Complementary Tools**

Road abandonment

# LINKAGE

## *Description*

A linkage program requires that developers contribute money into funds for public programs or amenities identified by the municipality, such as the acquisition or maintenance of open space, affordable housing, job training programs, or public art. The amount of money levied against a project is generally determined as a fixed sum for every square foot of development.

It is argued by some developers that this is a tax, not a fee, and therefore, linkage programs are unauthorized exercise of local power. No Massachusetts court case has directly addressed or challenged this issue.

## **Advantages**

- Provides financial resources for valuable planning programs.

## **Limitations**

- Difficult to relate the sum of the linkage fee to the effects of individual developments
- Legal uncertainties

## **Prerequisites for Use**

- Must designate linkage fee use.
- Must prescribe when fee is to be paid.

## **Some Examples of Where It is Used in Massachusetts**

Boston                      Marlborough                      Waltham (pending 2/87)

## **Information Location**

Boston Zoning Code, Article 26.

## **Complementary Tools**

Impact fees, bonus zoning.



